

-+UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

UNITED STATES OF AMERICA)
)
 V.) CAUSE NO. 2:06 CR 63
)
 VIKRAM S. BUDDHI

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PARTIES AGREED REQUESTED JURY INSTRUCTIONS

The United States of America, by Joseph S. Van Bokkelen, United States Attorney for the Northern District of Indiana, through Assistant United States Attorney Philip Benson and Vikram Buddhi, through counsel, John Martin, and respectfully requests that the Court include the attached instructions in its charge to the jury, and further requests leave to offer such other and additional instructions as may become appropriate during the course of the trial. (Numbered 1 through 17)

Respectfully submitted,

JOSEPH S. VAN BOKKELEN
UNITED STATES ATTORNEY

S/ Philip C. Benson
Assistant United States Attorney

United States Attorney's Office
5400 Federal Plaza, Suite 1500
Hammond, IN 46320

PARTIES AGREED INSTRUCTION NO. 1

Members of the jury, you have seen and heard all the evidence and the arguments of the attorneys. Now I will instruct you on the law.

You have two duties as a jury. Your first duty is to decide the facts from the evidence in the case. This is your job, and yours alone.

Your second duty is to apply the law that I give you to the facts. You must follow these instructions, even if you disagree with them. Each of the instructions is important, and you must follow all of them.

Perform these duties fairly and impartially. Do not allow sympathy, prejudice, fear, or public opinion to influence you. You should not be influenced by any person's race, color, religion, national ancestry, or sex.

Nothing I say now, and nothing I said or did during the trial, is meant to indicate any opinion on my part about what the facts are or about what your verdict should be.

7th Circuit Pattern Jury Instructions, 1.0 1

PARTIES AGREED INSTRUCTION NO. 2

The evidence consists of the testimony of the witnesses, the exhibits admitted in evidence, and stipulations. A stipulation is an agreement between both sides that certain facts are true. I have taken judicial notice of facts that may be regarded as matters of common knowledge. You may accept those facts as proved, but you are not required to do so.

7th Circuit Pattern Jury Instructions, 1.02

PARTIES AGREED INSTRUCTION NO. 3

You are to decide whether the testimony of each of the witnesses is truthful and accurate, in part, in whole, or not at all, as well as what weight, if any, you give to the testimony of each witness.

In evaluating the testimony of any witness, you may consider, among other things:

- the witness's age;
- the witness's intelligence;
- the ability and opportunity the witness had to see, hear, or know the things that the witness testified about;
- the witness's memory;
- any interest, bias, or prejudice the witness may have;
- the manner of the witness while testifying; and
- the reasonableness of the witness's testimony in light of all the evidence in the case.

7th Circuit Pattern Jury Instructions, 1.03

PARTIES AGREED INSTRUCTION NO. 4

You should use common sense in weighing the evidence and consider the evidence in light of your own observations in life.

In our lives, we often look at one fact and conclude from it that another fact exists. In law we call this "inference." A jury is allowed to make reasonable inferences. Any inferences you make must be reasonable and must be based on the evidence in the case.

7th Circuit Pattern Jury Instructions, 1.04

PARTIES AGREED INSTRUCTION NO. 5

Some of you have heard the phrases "circumstantial evidence" and "direct evidence."

Direct evidence is the testimony of someone who claims to have personal knowledge of the commission of the crime which has been charged, such as an eyewitness. Circumstantial evidence is the proof of a series of facts which tend to show whether the defendant is guilty or not guilty. The law makes no distinction between the weight to be given either direct or circumstantial evidence. You should decide how much weight to give to any evidence. All the evidence in the case, including the circumstantial evidence, should be considered by you in reaching your verdict.

7th Circuit Pattern Jury Instructions, 1.05

PARTIES AGREED INSTRUCTION NO. 6

Certain things are not evidence. I will list them for you:

First, testimony that I struck from the record, or that I told you to disregard, is not evidence and must not be considered.

Second, anything that you may have seen or heard outside the courtroom is not evidence and must be entirely disregarded. This includes any press, radio, or television reports you may have seen or heard. Such reports are not evidence and your verdict must not be influenced in any way by such publicity.

Third, questions and objections by the lawyers are not evidence. Attorneys have a duty to object when they believe a question is improper. You should not be influenced by any objection or by my ruling on it.

Fourth, the lawyers' statements to you are not evidence. The purpose of these statements is to discuss the issues and the evidence. If the evidence as you remember it differs from what the lawyers said, your memory is what counts.

7th Circuit Pattern Jury Instructions, 1.06

PARTIES AGREED INSTRUCTION NO. 7

It is proper for an attorney to interview any witness in preparation for trial.

7th Circuit Pattern Jury Instructions, 1.07

PARTIES AGREED INSTRUCTION NO. 8

The indictment in this case is the formal method of accusing the defendant of an offense and placing the defendant on trial. It is not evidence against the defendant and does not create any inference of guilt.

The defendant is charged in Counts One through Ten of the indictment with transmitting in interstate commerce threats against the President, Vice-President, and Secretary Of Defense of the United States, and the wives of the President and Vice President. The defendant is charged in Count Eleven with using an instrument of interstate commerce to threaten to unlawfully damage and destroy buildings and real property by means of fire and explosives. The defendant has pleaded not guilty to the charges.

7th Circuit Pattern Jury Instructions, 2.01

PARTIES AGREED INSTRUCTION NO. 9

The defendant is presumed to be innocent of the charges. This presumption continues during every stage of the trial and your deliberations on the verdict. It is not overcome unless from all the evidence in the case you are convinced beyond a reasonable doubt that the defendant is guilty as charged. The government has the burden of proving the guilt of the defendant beyond a reasonable doubt. This burden of proof stays with the government throughout the case. The defendant is never required to prove his innocence or to produce any evidence at all.

7th Circuit Pattern Jury Instructions, 2.03

PARTIES AGREED INSTRUCTION NO. 10

You have received evidence of a statement said to be made by the defendant to various individuals. You must decide whether the defendant did in fact make the statement. If you find that the defendant did make the statement, then you must decide what weight, if any, you feel the statement deserves. In making this decision, you should consider all matters in evidence having to do with the statement, including those concerning the defendant himself and the circumstances under which the statement was made.

7th Circuit Pattern Jury Instructions, 3.02

PARTIES AGREED INSTRUCTION NO. 11

As used in these instructions the term "immediate family" includes the wife of the President and the wife of the Vice President of the United States

Title 18 U.S.C. 879(b)

PARTIES AGREED INSTRUCTION NO. 12

I hereby instruct you that the internet is an instrument of interstate commerce.

United States v. Brand, 467 F.3d 179, 197 (2ND Cir. 2006)

United States v. Tykarsky, 446 F.3d 458, 470 (#rd Cir. 2006)

United States v. Rojas, 145 Fed. Appx. 647, 649 (11th Cir. 2005)

United States v. Hicks, 457 F.3d 838, 840 (8th Cir. 2006)

PARTIES AGREED INSTRUCTION NO. 13

The indictment charges that the offense was committed "on or about" certain dates. The government must prove that the offense happened reasonably close to that date but is not required to prove that the alleged offense happened on an exact date.

7th Circuit Pattern Jury Instructions, 4.04

PARTIES AGREED INSTRUCTION NO. 14

When the word "knowingly" is used in these instructions, it means that the defendant realized what he was doing and was aware of the nature of his conduct, and did not act through ignorance, mistake or accident.

Knowledge may be proved by the defendant's conduct, and by all the facts and circumstances surrounding the case.

7th Circuit Pattern Jury Instructions, 4.06

PARTIES AGREED INSTRUCTION NO. 15

Upon retiring to the jury room, select one of your number as your foreperson. The foreperson will preside over your deliberations and will be your representative here in court. Forms of verdict have been prepared for you.

Take these forms to the jury room, and when you have reached unanimous agreement on the verdict, your foreperson will fill in and date the appropriate form, and each of you will sign it.

7th Circuit Pattern Jury Instructions, 7.01

PARTIES AGREED INSTRUCTION NO. 16

I do not anticipate that you will need to communicate with me. If you do, however, the only proper way is in writing, signed by the foreperson, or if he or she is unwilling to do so, by some other juror, and given to the marshal.

7th Circuit Pattern Jury Instructions, 7.05

PARTIES AGREED INSTRUCTION NO. 17

The verdict must represent the considered judgment of each juror. Your verdict, whether it be guilty or not guilty, must be unanimous.

You should make every reasonable effort to reach a verdict. In doing so, you should consult with one another, express your own views, and listen to the opinions of your fellow jurors. Discuss your differences with an open mind. Do not hesitate to re-examine your own views and change your opinion if you come to believe it is wrong. But you should not surrender your honest beliefs about the weight or effect of evidence solely because of the opinions of your fellow jurors or for the purpose of returning a unanimous verdict.

The twelve of you should give fair and equal consideration to all the evidence and deliberate with the goal of reaching an agreement which is consistent with the individual judgment of each juror.

You are impartial judges of the facts. Your sole interest is to determine whether the government has proved its case beyond a reasonable doubt.

7th Circuit Pattern Jury Instructions, 7.06

Certificate of Service

I hereby certified that June 22, 2007 I filed Parties Agreed Jury Instructions with the Clerk of the Court; such filing to be made to the following:

by electronic filing:

John Martin

and I hereby certify that I have mailed by United States Postal Service the document to the following non CM/ECF participants:

NONE

S/ Philip C. Benson

Assistant United States Attorney